

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re:

JOSEPH MARTIN THOMAS,
Debtor.

JOSEPH MARTIN THOMAS,

Movant,

v.

THE KADA GALLERY,

Respondent.

BANKRUPTCY NO. 20-10334 TPA

THE HONORABLE THOMAS P.
AGRESTI

CHAPTER 11

DOC. NO. ____

RELATED TO DOC. NO. 327

**AMENDED STIPULATION AND CONSENT ORDER
REGARDING CLAIM NO. 25 OF THE KADA GALLERY**

The Debtor, Joseph Martin Thomas (hereinafter the “Debtor”), and the Respondent, The KADA Gallery (the “KADA”, and together, the “Parties” or individually “Party”), by and through their respective undersigned counsel, hereby file this *Amended Stipulation and Consent Order regarding Claim No. 25 of the KADA Gallery* pursuant to, *inter alia*, 11 U.S.C. § 502(a) (the “Stipulation”), in support of which the following is a statement:

RECITALS

1. On May 6, 2020 (the “Petition Date”), the Debtor filed his petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Pennsylvania at the above-captioned Case No. (the “Bankruptcy Case”).

2. The Debtor continues in the management of his business and property as a Debtor-in-Possession pursuant to §§1107 and 1108 of the Bankruptcy Code. No examiner or trustee has been appointed.

3. Prior to the Petition Date, the Debtor regularly purchased artwork from KADA.

4. On September 15, 2020, KADA filed a secured proof of claim in the amount of \$185,595.33 at Claim No. 25 (the "Claim") in the Bankruptcy Case for artwork that the Debtor purchased but remained unpaid.

5. Some of this artwork remains in possession of KADA and the balance of the artwork has been identified as being in the Debtor's possession. Attached as Exhibit "A" to this Stipulation is a spreadsheet of the artwork setting forth to the best of the parties' information, which Party hereto has possession of each piece of artwork and the valuation thereof based on the purchase price of each piece of artwork.¹

6. After reviewing the merits of the Claim, the Debtor and KADA, through their respective undersigned counsel, have engaged in *bona fide* discussions in an effort to reach an amicable resolution to the Claim based on their respective positions.

7. As a result of those good faith negotiations, the Debtor, in exercising his sound business judgment, and KADA have reached an agreement, subject to approval by this Honorable Court, regarding the Claim.

¹ Exhibit "A" identifies all artwork in the Debtor's possession that has an outstanding balance owed to KADA. The Debtor has additional artwork in his possession that the Debtor purchased from KADA that has been paid in full, and that artwork is not all identified on Exhibit "A". Exhibit "A" is complete to the best of both Parties' knowledge. The former owner of KADA who most often worked with the Debtor passed away. The current owner used the invoices, ledgers, and other documentation to compile the list set forth on Exhibit "A," and this list was checked against the Debtor's records and revised accordingly.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing, the Parties hereto stipulated and agree as follows:

- a. Claim No. 25 filed by KADA in the amount of \$185,595.33 is hereby DISALLOWED in its entirety.
- b. KADA shall maintain ownership of any artwork currently in its possession that was purchased by the Debtor in satisfaction of its claim, including but not limited to the artwork set forth on Exhibit "A", which totals approximately \$78,780.98. The Debtor will have no claims to or against any of the artwork in KADA's possession.
- c. Any purported secured interest in artwork in the Debtor's possession that was purchased from KADA is hereby SATISFIED, and the Debtor will remain in possession and retain ownership of any such artwork currently in his possession, including but not limited to the artwork set forth on Exhibit "A", which totals approximately \$179,456.27.
The Parties hereby mutually agree to a general release of all claims, rights, and causes of action associated with the artwork.

AGREED TO BY:

THE QUINN LAW FIRM

LEECH TISHMAN FUSCALDO & LAMPL,
LLC

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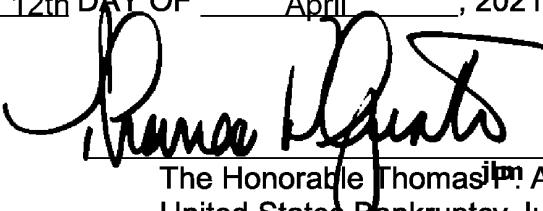
Attorneys for the Respondent, The
KADA Gallery

Dated: March 24, 2021

By: /s/ Joseph M. Thomas
Joseph M. Thomas, M.D.

By: /s/ Kathleen DeAngelo
Kathleen DeAngelo, owner,
KADA Gallery

SO ORDERED, THIS 12th DAY OF April, 2021 BY:


The Honorable Thomas J. Agresti
United States Bankruptcy Judge

In re:
Joseph Martin Thomas
Debtor

Case No. 20-10334-TPA
Chapter 11

District/off: 0315-1
Date Rcvd: Apr 12, 2021

User: bsil
Form ID: pdf900

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Total Noticed: 2

The following symbols are used throughout this certificate:

Symbol Definition

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Apr 14, 2021:

Recip ID	Recipient Name and Address
db 15238716	+ Joseph Martin Thomas, c/o Tri-State Pain Institute, 2374 Village Common Drive, Erie, PA 16506-7201 + KADA Gallery, 2632 West Eighth Street, Erie, PA 16505-4021

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 14, 2021

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 12, 2021 at the address(es) listed below:

Name	Email Address
Andrew F Gornall	on behalf of Interested Party Barbara Noonan andygornall@latouflawfirm.com
Brian Nicholas	on behalf of Creditor PNC BANK NATIONAL ASSOCIATION bnicholas@kmllawgroup.com
Crystal H. Thornton-Illar	on behalf of Creditor The Kada Gallery cThornton-Illar@leechtishman.com bankruptcy@leechtishman.com;mproden@leechtishman.com;thornton-illarcr81012@notify.bestcase.com
Gary V. Skiba	on behalf of Interested Party Tri-State Pain Institute LLC gskiba@marshlaw.com, DGeniesse@marshlaw.com;rose227@hotmail.com
Guy C. Fustine	on behalf of Creditor Official Committee of Unsecured Creditors for Tri-State Pain Institute LLC mwernicki@kmgslaw.com, knoxbank@hotmail.com,burban@kmgslaw.com,amulryan@kmgslaw.com

District/off: 0315-1

User: bsil

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TOTAL: 17